DATE: November 12, 2019

TO: David Kuszmar, PE
Senior Water Resource Control Engineer
Southern Cannabis Regulatory Unit

FROM: Connor McIntee
Environmental Scientist
Enforcement Unit

**Inspection Report for June 21, 2019 Inspection**
**Humboldt County Assessor's Parcel Number 217-381-008-000**

FILE: Cannabis Regulatory Program Inspections, John Quinn Property, Humboldt County, CIWQS Place ID 844276

## Property information

County: Humboldt

Physical address: 1750 Sunset Ridge Road, Blocksburg, CA 95514

APN: 217-381-008-000

Owner: John Quinn
2721 Shattuck Ave., Ste. 253
Berkeley, CA 97405

Transaction History: Last recorded sale July 19, 2016, from sellers Shereen S. Smith and Shereen Smith Trust.

Size: 40 acres

Watershed: Eel River Hydrologic Unit; Middle Main Eel Hydrologic Area; Sequoia Subarea (HU/HA/HSA 111.41; Table 2-1, Water Quality Control Plan for the North Coast Region)

Aerial Imagery Notes (Google Earth Pro): Open areas, clearings, structures visible in August 2008 imagery. No significant changes in site characteristics through April 2019. Hoop house infrastructure, cleared, bare soil area, and patterns suggestive of cannabis cultivation visible, beginning in September 2010 imagery.

## Regulatory Status with the North Coast Regional Water Quality Control Board

Site Development: No permits sought

Applicable programs: Clean Water Act Section 401 Water Quality Certification Program for instream work. National Pollutant Discharge Elimination System (NPDES) Construction Storm Water Permitting Program for grading over an acre.

Onsite Activities/Operations: Application for permit coverage under North Coast Regional Cannabis Order (No. R1-20015-0023) submitted by John Quinn, Owner, on October 28, 2017. Application for permit coverage under statewide Cannabis Cultivation General Order (WQ 2019-0001-DWQ) submitted by John Quinn, Owner, on June 10, 2019, for facility name Ecoyard Inc.

Applicable programs: Cannabis Cultivation Waste Discharge Regulatory Program for cannabis cultivation and related activities. Division of Water Rights Small Irrigation Use Registration for irrigation activities.

## Inspection information

Date: June 21, 2019

Type: Compliance Inspection

Attendance:
Andrew Orahoske, Environmental Scientist, California Department of Fish and Wildlife
Connor McIntee, North Coast Regional Water Quality Control Board
John Quinn, Discharger and Parcel Owner of Record
Raquel Martinez, Project Manager for Ecoyard Inc.
John Cunningham, Consultant, Orcal Engineering
Beorn Zepp, Attorney, Rain and Zepp

Background/Objective:
North Coast Regional Water Quality Control Board (Regional Water Board) staff participated with staff of the California Department of Fish and Wildlife, and representatives from Ecoyard Inc. and their agents on a site inspection to determine the compliance status of the subject Property in relation to the statewide Cannabis Cultivation General Order on June 21, 2019. Inspection objectives for Regional Water Board staff included assessing onsite features or conditions that are impacting or may impact the quality and beneficial uses of receiving waters, including surface and ground waters.

**Inspection Map**

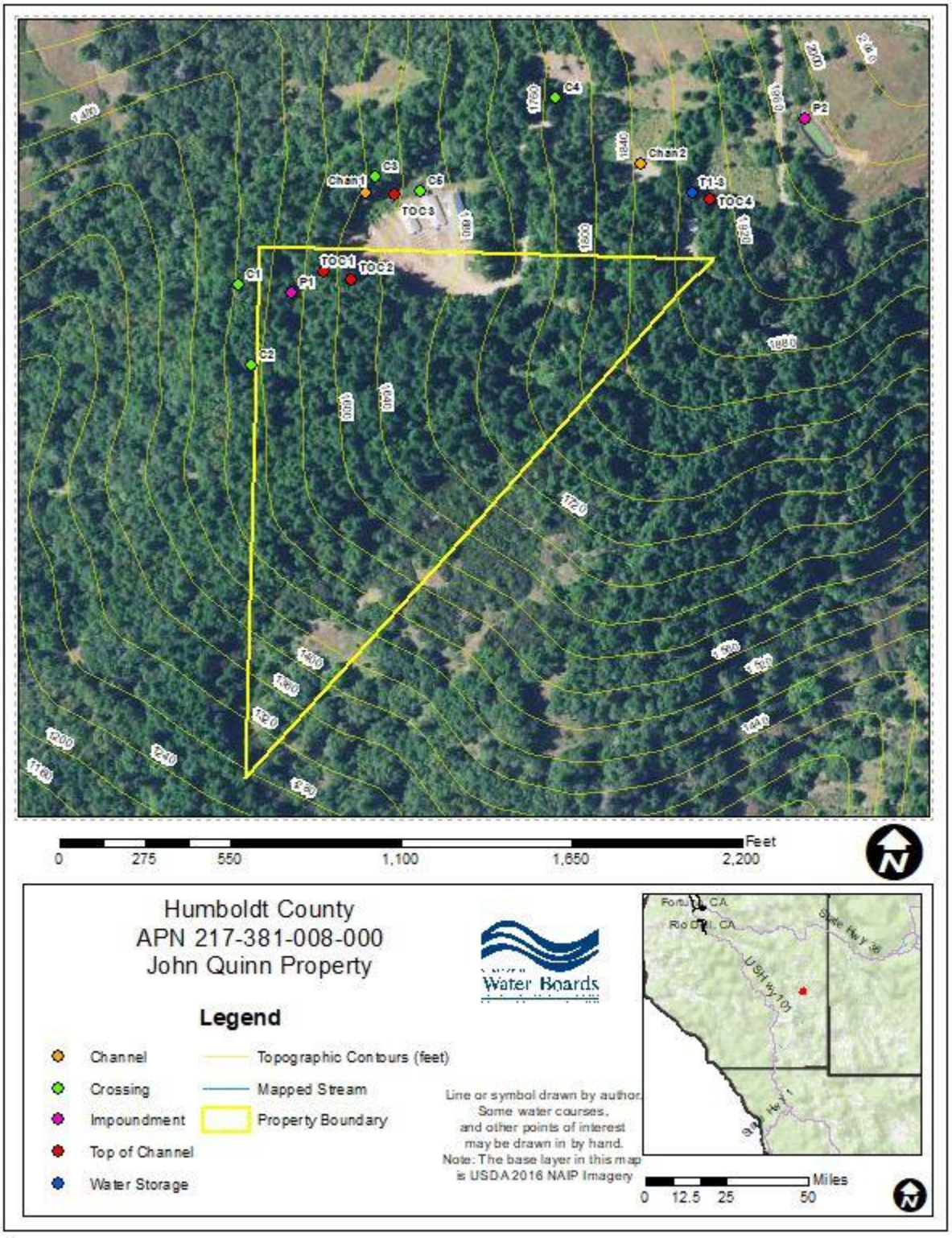


**Figure 1: Map of Property, including Inspection Points of Interest**

Note: Parcel Boundary is approximate, based on information provided by Humboldt County.

**Inspection Observations**

On June 21, 2019, I inspected the subject Property. Figure 1 above is a site map showing the inspection points discussed below. Development on the Property at the time of the inspection included one area that was actively being used for cannabis cultivation and three areas that were previously used for cannabis cultivation (not labeled on Figure 1), water supply infrastructure used for irrigating cannabis plants, including an off-stream impoundment, an onstream impoundment that was not actively being used for cannabis irrigation, as well as a network of connecting roads and related road infrastructure, including five stream crossings.

During the inspection, I compared my onsite observations with the information provided in the Water Resource Protection Plan (WRPP) submitted by the Discharger. In instances where site features are identified in this report, I have outlined whether they were present and/or adequately discussed/disclosed in the WRPP.

The active cultivation area, called OG1 in this report (not labeled on Figure 1), is located in the north-central portion of the Property in the large clearing, just south of C5 and near points TOC1, TOC2, and TOC3. OG1 is located in a flat depression that, with no anthropogenic alternations, appears would receive channelized flow from two distinct watercourses up-gradient. The two watercourses have been diverted from their natural flow paths. One flows behind the main structure on the northeast portion of OG1, then into a watercourse crossing (C5 on Figure 1), eventually delivering to another class III watercourse below. The second watercourse is diverted along the access road leading to OG1 (Photos 18-20) along the southern side of the clearing near several water storage tanks (T1-3 on Figure 1), where it disperses into a vegetated area. Just downslope from where the second channel disperses, and approximately 25 feet from the cleared area associated with OG1, I observed evidence of channelized flow and a class III watercourse (Photos 7-9), labeled as TOC2 on Figure1. TOC2 was not disclosed in the WRPP.

To the west of TOC2, I observed the headwaters of a second watercourse, TOC1 (Photos 2-3). TOC1 contains evidence of channelized flow and is located within 30 feet of OG1. Just downslope from TOC1, I observed a substantial amount of slash from land clearing activities associated with the development of OG1, burying any evidence of a continued channel below TOC1. Further downslope, along the contours associated with TOC1, I observed a small impoundment, P1 (Photo 1). P1 consists of a small earthen dam comprised of hand-excavated native fill, including a spill way that diverts flow into a class III watercourse. The spillway does not contain adequate erosion control and flow conveyance infrastructure. TOC1 was not disclosed in the WRPP, and P1 was not adequately discussed in the WRPP.

Further downslope from P1, I observed a watercourse crossing along a skid road, C1 on Figure 1 (Photo 4). C1 consists of a ford crossing with no armoring. C1 directs flow associated with TOC1 and P1 into an adjacent class III watercourse. C1 was not disclosed in the WRPP.

To the south, along the same skid road, I observed a second watercourse crossing, C2 (Photos 5-6). C2 consists of a channel that has formed from water flowing down the skid road, diverting across the road, and delivering to a class III watercourse below. C2 was not disclosed in the WRPP.

Along the north side of OG1, I observed a third headwater stream, TOC3 on Figure 1, located 3 feet from outdoor cannabis cultivation activities and 32 feet from a greenhouse structure (Photos 12-13). Near this point I observed a large pile of soil amendments near the watercourse, and discarded fertilizer containers within the channel. The watercourse channel continues downslope to point Chan1 on Figure 1, and eventually crosses an old skid road near point C3 on Figure 1 (Photo 14-15). I was unable to closely inspect the crossing feature because there were large, potentially unstable, slash piles along the road and within the watercourse, making observation difficult. TOC3, C3 and the adjacent skid road were not disclosed in the WRPP.

To the immediate north of OG1, and east of TOC3, I observed a fourth watercourse crossing, C5 on Figure 1 (Photos 21-23). C5 consists of a dirt ford crossing along a class III watercourse and lacks appropriate rock armoring and flow conveyance design features. Water crossing C5 continues downslope and delivers to a class II watercourse below. C5 was not disclosed in the WRPP.

Adjacent to C5, near OG1, the WRPP discusses an area where an unlabeled 55-gallon drum was identified by a forester in an accompanying site inspection report (issued prior to the development of the WRPP), which stated that some of the drum's contents potentially had been spilled (not photographed). I observed the unlabeled drum and inquired as to the history of the drum and whether a spill had occurred. Mr. Cunningham and Ms. Martinez stated that they did not know the history but would find out.

Upslope to the northwest of OG1, near a retired cultivation site, I observed a fifth watercourse crossing, C4 on Figure 1. C4 was disclosed in the WRPP and remediation of the site was attempted. During the inspection, I observed uncompacted, recently excavated, earthen material along the crossing (Photos 16-17). Mr. Cunningham indicated that, during the decommissioning of the cultivation area beyond C4, the operators also worked to decommission the crossing. I observed that straw was placed throughout the area where work was conducted, but that the general condition of the crossing was unstable and in need of further remediation.

Further upslope, along the main access road, I observed evidence of a watercourse channel (Photos 27), labeled Chan2 on Figure 1. The channel is diverted along the inboard ditch of the main access road and appears to deliver its contents onto a grassy flat that was associated with a former, retired, cultivation site. The channel extends upslope to its headwaters, labeled TOC4 on Figure 1. Between TOC4 and Chan2, I observed several water storage tanks (Photos 25-26). The tanks were located within 10 feet of the watercourse. The water storage tanks were disclosed in the WRPP, but the adjacent channel was not. Twenty feet upslope from TOC4, I observed a third remediated cultivation site. This site was disclosed in the WRPP.

Upslope from TOC4, along the northeastern corner of the Property, I observed a second, off-stream impoundment, P2 on Figure 1. P2 consists of an earthen berm that lacks any overflow conveyance infrastructure (Photo 24). P2 was disclosed in the WRPP.

**Table 1. Inspection Point Summary**

| *Map point* | *Feature* | *Brief Description* | *Water Quality Concern* | *Associated Photo(s)* |
|---|---|---|---|---|
| N/A | Cannabis cultivation area | Outdoor and greenhouse area with active cannabis cultivation, soils, fertilizer, located adjacent to multiple headwater streams | Threatened discharge of waste to waters of the State | 10, 12-13 |
| P1 | Onstream impoundment | Onstream earthen dam impoundment | Threatened discharge of waste to waters of the State | 1 |
| P2 | Off-stream impoundment | Off-stream earthen dam impoundment | Threatened discharge of waste to waters of the State | 24 |
| C1 | Watercourse crossing | Inadequately installed and/or maintained watercourse crossing | Threatened discharge of waste to waters of the State | 4 |
| C2 | Watercourse crossing | Inadequately installed and/or maintained watercourse crossing | Threatened discharge of waste to waters of the State | 5-6 |
| C3 | Watercourse crossing | Inadequately installed and/or maintained watercourse crossing | Threatened discharge of waste to waters of the State | 14-15 |

| *Map point* | *Feature* | *Brief Description* | *Water Quality Concern* | *Associated Photo(s)* |
|---|---|---|---|---|
| C4 | Watercourse crossing | Inadequately installed and/or maintained watercourse crossing | Threatened discharge of waste to waters of the State | 16-17 |
| C5 | Watercourse crossing | Inadequately installed and/or maintained watercourse crossing | Threatened discharge of waste to waters of the State | 21-23 |
| TOC1 | Class III watercourse | Slash in the watercourse | Threatened discharge of waste to waters of the State | 2-3 |

**A comparison of conditions observed on the site with categories of activities typically associated with water quality concerns at cannabis cultivation sites**

1. Site maintenance, erosion control and drainage features: In addition to those separately listed below, I observed one location, the drainage associated with point C2, where site maintenance, erosion control and/or drainage features on the Property were not properly maintained.

2. Stream crossing maintenance and improvement: I observed 5 stream crossings that were inadequately installed and/or maintained and represent a threat to water quality.

3. Riparian and wetland protection and management: I observed multiple instances where cannabis cultivation areas and cultivation-related infrastructure encroached within the riparian setback requirements.

4. Spoils management: I observed two locations where slash was placed within a class III watercourse feature.

5. Water storage and use: I observed one onstream impoundment and one off-stream impoundment. Both impoundments lacked adequate overflow conveyance infrastructure. I observed one location where water storage tanks were sited within the riparian setback requirements.

6. Irrigation runoff: I observed evidence that irrigation runoff likely contributed fertilizer and soil amendment related pollutants to the watercourse via overland flow associated with TOC3 from OG1.

7. Fertilizers and soil amendments: I observed two locations where fertilizers and soil amendments were improperly placed, uncovered and/or uncontained.

8. Pesticides: I observed no water quality concerns relating to pesticides on the Property.

9. Petroleum products and other chemicals: I observed one location where petroleum products were uncovered and/or uncontained.

10. Cultivation-related wastes: I observed multiple locations where cultivation-related wastes were improperly placed, uncovered and/or uncontained.

11. Refuse and human waste: I did not observe any water quality issues relating to human waste or refuse on the Property.

## Recommendations

1. Consult with appropriately qualified, licensed professionals to inventory, assess, and develop a workplan and schedule to implement measures ensuring that all developed features, roads, watercourse crossings, and cultivation areas throughout the Property are corrected, restored, and/or maintained in conditions that prevent or minimize erosion, sediment transport and delivery, and adverse impacts to water quality and beneficial uses. Such measures shall be consistent with those listed in Attachment A to the Cannabis Cultivation General Order (WQ 2019-0001-DWQ). Include measures to ensure that unstable features caused or affected by onsite development and operations are removed or otherwise protected so as to minimize the potential for these features to cause adverse impacts to water quality and beneficial uses. Dispose of all development and restoration-related earthen spoils in a manner to prevent/minimize transport and delivery to receiving waters.

2. In the case that the landowner intends to keep or replace the impoundments observed at locations P1 and P2, ensure that the assessment described under Recommendation 1 above includes the certification of an appropriately qualified, licensed professional, stating that the impoundment meets, or specifying measures necessary to ensure that the impoundment will meet, the following standards:

    a. Interior and exterior embankment slopes must be no steeper than a 2:1 ratio.
    b. Minimum compaction of earthen slopes must be 90%.
    c. The pond must have a liner. If a geosynthetic membrane liner is deemed unacceptable for biological resources, then a proper dry bentonite application

may be proposed, including specifications and oversight on bentonite amount, application, mix with soil, hydration, and compaction.

d. The impoundment must have no discernible cracks in any portion of the berm.

e. The impoundment must be designed, constructed, and maintained to ensure a 2-foot elevational freeboard above the outlet structure.

f. The outlet structure must have a minimum capacity adequate to accommodate the expected 100-year peak inflow (for a 24-hour design event) plus debris.

g. A stability analysis must demonstrate that the factor of safety for the critical slope is at least 1.5 under dynamic conditions and include a description of the method used to calculate the factor of safety and a description of the assumptions used in the stability analysis.

h. Consult with the State Water Resources Control Board (State Water Board) Division of Water Rights and the California Department of Fish and Wildlife to ensure that all applicable water use permits are obtained.

3. Prior to conducting any instream work associated with Recommendations 1 and 2 above, submit to the Regional Water Board an application for Clean Water Act section 401 water quality certification, and secure approval from the Regional Water Board.

   The 401 application may be found at the following hyperlink:

   https://www.waterboards.ca.gov/northcoast/water_issues/programs/wqc_docs/031616_401-Application.pdf

4. Store and contain all chemicals, including petroleum, fertilizer and/or pesticides properly to prevent spillage and discharge to receiving waters. Provide secondary containment for all petroleum products.

5. In the event that the Property owner and/or tenant(s) propose in the future to develop or use the Property in a manner or method that will or may result in a discharge of waste to waters of the State in the future, staff recommend that the owner(s)/tenant(s) be aware of and comply with relevant regulatory requirements for water quality protection. For example, Water Code section 13260 requires that a person discharging waste, or proposing to discharge waste, within any region that could affect the quality of the waters of the State, other than into a community sewer system shall file with the appropriate regional board a report of the discharge. Further, Water Code section 13264 states, in part: “No person shall initiate any new discharge of waste or make any material changes in any discharge…prior to the filing of the report required by Section 13260.” In addition, projects involving the disturbance of an acre or more of land are subject to regulation under the statewide Construction General Storm Water Permit, and projects involving dredge or fill in waters of the United States are subject to regulation under Clean Water Act section

401. You may find further information about Regional Water Board permits that may apply to proposed or future site development or land use activities at this hyperlink:

https://www.waterboards.ca.gov/northcoast/water_issues/programs/permit/

## Enforcement Discretion

The observations in this report will be assessed for violations of the California Water Code. The Regional Water Board and the State Water Board reserve the rights to take any enforcement action authorized by law.

## Photo Appendix

Photo 1: P1, outfall visible in the background

Photo 2: Slash on top of TOC1, channel not visible due to slash

Photo 3: Slash in channel associated with TOC1, photo taken from edge of P1

Photo 4: Diverted watercourse along skid road with crossing, C1 located where person is standing

Photo 5: Eroded channel along skid road upstream of C2

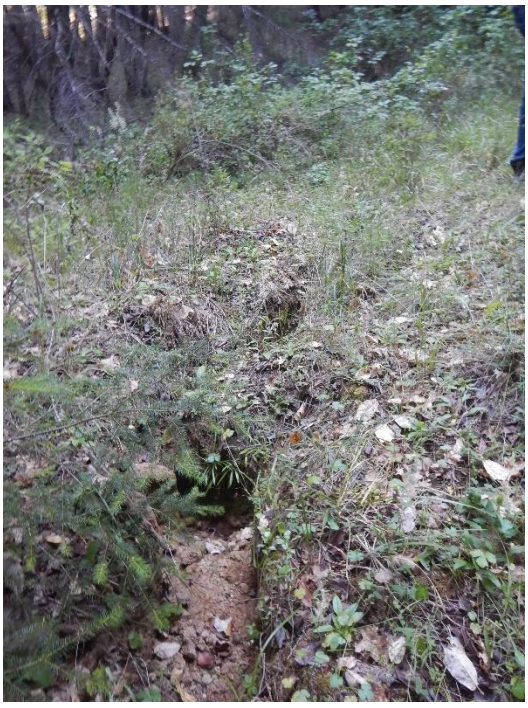

Photo 6: Picture of downstream side of C2

Photo 7: Channel downslope from TOC2, leading towards C2

Photo 8: TOC2, with cultivation area in background

Photo 9: Fine sediment deposition within channel near TOC2

Photo 10: Terrace area of OG1 with failing hillslope above TOC2

Photo 11: Discarded fertilizer container in channel below TOC3

Photo 12: TOC3, person on left is looking at the top of the channel, OG1 three feet to the right

Photo 13: Cultivation related wastes, soil amendments, located within 10 feet of TOC3

Photo 14: Skid road north of OG1

Photo 15: Slash along skid road in area near suspected crossing, C3

Photo 16: Crossing, C4

Photo 17: Crossing, C4

Photo 18: Main access road inboard ditch

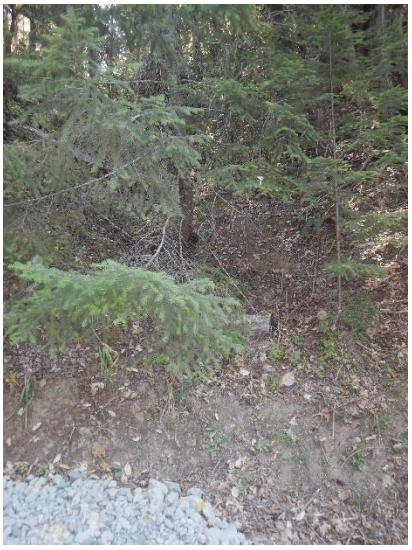

Photo 19: Watercourse feature, swale, immediately upslope of main access road, Chan2

Photo 20: Inboard ditch of main access road near OG1

Photo 21: Class II / seep coming from hillside downslope of intercepted swale / watercourse feature upslope of C5

Photo 22: Class II drainage downslope of the class II / seep adjacent to the main house structure on the eastern edge of OG1, leading towards C5

Photo 23: Class III drainage leading to C5, C5 in background near rightmost person

Photo 24: Impoundment, P2

Photo 25: Class III channel near TOC4, T1-3 in background

Photo 26: Class III channel / inboard ditch along main access road, downstream of T1-3

Photo 27: Delivery point of class III channel, near point Chan2

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